STATEMENT OF THE CASE

On August 6, 2003, the South Carolina Supreme Court denied a petition for rehearing on direct appeal from a two count criminal conviction. At that time, petitioner was preparing other legal documents and was unable to immediately prepare a petition for Writ of Certiorari to this court.

Seen after he began preparing it, however, he was suddenly place in 'protective custody' and his legal work and law library notes seized. To preclude default, of the ninety day limitation period of Rule 13, petitioner borrowed a one-inch golf pencil, some legal pad sheets and a couple of envelopes while out of solitary eating a meal. Petitioner prepared the rambling letter which appears at Appendix e-18, e-19, E-120 and e-21, which he declared truthful per 28 U.S.C. § 1746. Enclosed was a Motion for Enlargement of time to petition for certiorari, see Appendix e-35 (under the original September 22 date and signature). An In Forma Pauperis Motion and affidavit were completed and enclosed. These documents were also served on respondent, see Certificate of Service at Appendix e37.

As noted in the letter, a second matter was also submitted. That matter consisted of a one page Petition for writ of Habeas Corpus in the court's original jurisdiction, (see Appendix e-36.) The letter was replete with notations that two matters were being submitted.

Ms. Jones in her letter dated October 8, 2003, failed to acknowledge the Motion for Enlargement, choosing, instead. To call the collective submission a petition returned per Rule 14, (see Appendix e-22).

To attempt to correct her 'error', (see history of malfeasance), petitioner did respond to the Court on October 15, 2003 with two separate mailings. As this

detention center has refused to make legal copies for service of process, or to make verifiable mailings, petitioner persuaded one detention center sergeant to allow petitioner's mother to pick-up, copy and mail his legal filings. For speed, however, the direct appeal matter was sent by taping three (3) embossed 1st class envelopes together.

The letter at Appendix e-25 and e-26 was sent covering a complete copy of all of the materials sent to the Court on September 22, 2003 in the matter of the direct appeal. Enclosed was a Motion for Enlargement of time, re-executed on October 15, 2003, (see Appendix e-35, a copy of the Informa Pauperis Motion and Affidavit-Declaration; and a copy of the South Carolina Supreme Court decision and denial of the Petition for Rehearing. The cover letter, (Appendix e- 25 and the In Forma Pauperis Motion, Appendix e37 were the only documents receiving a date stamp, However, no new letter was sent covering the returned documents; the October 8, 2003 letter was the window addressee for mail purposes.

The letter at Appendix e-23 and e-24 was also sent on October 15, 2003 covering a complete copy of the materials originally sent on September 22, 2003 in the matter of the Petition for Writ of Certiorari in the Supreme Court's original jurisdiction. It was sent via Registered Mail marked Personal to the Honorable William K. Suter, Clerk of Court, the other letter had also been so marked. The green postal receipt card was never returned, but the cover letter of petitioner, Appendix 23, did receive a date stamp; but only it did.

In the same manner described above, i.e., using the October 8 letter as the window addressee, the documents were returned to the petitioner.

Because of the admonition of Ms. Ruth Jones in her October 8 letter that "no change to the substance of the "petition" may be made." Petitioner

immediately sent out the partially completed petition he was composing along with all evidentiary Appendices. These were copied by his mother and sent to the Court on November 04, 2003. At the same time, a complete copy was served (as all previous documents}on respondents. Also at the same moment, petitioner's retained copy was returned to him by mail. The machine generated postage for the "Media Mail" posting to petitioner is presented into evidence at Appendix G-1, item 2, in a sworn declaration.

The mailing to the court at that very moment consisted of a petition, complete in every way but for the **"REASON FOR GRANTING THE PETITION"** section. Appendix F contained one-hundred and sixty eight (168) documents. This mailing was sent by Registered Mail addressed "Personal" to Justice Rehnquist (sic) at the address of the Supreme Court. Because Justice Rehnquist is [was] the assigned Justice for the Fourth Circuit Court of Appeals, he was the proper Justice to decide the newly composed Motion for Extension of Time to Petition for Certiorari; see Appendix e-48, the extraordinary circumstances were there-in expounded. The cover letter to the Chief Justice appears at Appendix e-27 and e-28. No acknowledgement of receipt has ever been returned from the Court, neither did the green postal receipt card ever return. As this registered Mail was also Priority Mail, two registries of delivery should exist. Attempts to obtain the information from the sending zip code postmaster, see Appendix e-38, and the receiving zip code postmaster, see Appendix e-39, were unsuccessful; no response was received from either request.

After completion of the "**REASONS...**" section, a complete copy of the petition with the addition of copies of South Carolina Statutes, etc. numbered F-170 through F-178 was sent to the Court and served on respondents. .That submission was allowed to be picked-up by petitioner's mother after 10 days of negotiation (no legal papers may now utilize this procedure.) On December 27, 2003, she posted by Registered Priority Mail, again to the

Chief Justice. Respondents were also served by Priority Mail. Although the green postal receipt card was again retained by Court employees, the delivery was recorded as having occurred at 7:26 a.m. on January 05, 2004 under control number 7003 1010 0002 9896 1809. No acknowledgement of receipt has ever been issued from the court.

A petition for Writ of Mandamus directed at Ms. Ruth Jones was sent by certified mail to the United States District Court, District of Columbia at the only address petitioner had, that of this (Supreme) Court. That petition was delivered by the post office on February 18, 2004 under control number 7003 2260 0006 5740 9812 to this Courts address, but has never received acknowledgement or response from any Federal Court.

Another petition for Writ of Mandamus was composed and sent to the correct address of the District of Columbia on March 04, 2004. That court denied the petition on April 15, 2004, and a timely appeal was filed; that appeal was denied on February 9, 2005; and the Petition for Rehearing and Rehearing En Banc was denied on June 16, 2005. The Petition for Writ of Certiorari follows.

Extra-judicial attempts to correct Ms. Ruth Jones unlawful and unconstitutional behavior have been made. Letters were sent to two South Carolina Representatives, one actually responded. See response letter at Appendix (e-40). Senator Hollings never responded, and neither did Senator Lindsey Graham. See Appendix e-41, 42 and 43; See also e-44, 45, 46, and 47. Many others were sent, including a set of documents, letter, etc..., to the New York Times.

Even though petitioner's history with Ms. Ruth Jones, beginning in October, 2000, made him aware of the impossibility of getting mail complaining about Ms. Ruth Jones to any official, petitioner decided to try a clandestine approach. On May 22, 2004 the letter at

Appendix e-30, 31, 32, and 33 was composed. To avoid interception by Ms. Ruth Jones, the letter was posted using petitioner's sister's married name, and her return address. It was mailed again by Registered Mail 'personal' to the Honorable William K. Suter. The green receipt card did return this time, but the response from Ms. Ruth Jones located at Appendix e-34 was all that ever came of it; note the obfuscation on the date.

Previous malfeasance by Ms. Ruth Jones is documented in the Appendices and materials. Notably, a certified priority mail filing of an extra-ordinary Writ of Certiorari petition affecting two related cases Ms. Ruth Jones claimed that mail had not been received by the Court, it was mailed on March 31, 2003 and delivered to the Court on April 08, 2003 under control number 7099 3400 0008 7311 3722. That green postal receipt card was never returned, and no acknowledgement of receipt or otherwise has been received from the court. Attempts to file an extraordinary Writ of Mandamus directed at Ms. Ruth Jones, previously, in the Fourth Circuit appeal which was also, by 'error' of Ms. Ruth Jones, never docketed, never were put before the court, simply mailed back with no cover letter. The Fourth Circuit docket number of that case is 99-7518, see Appendices e-50, e-51.

Also included in exhibit, (see Appendices F-1, F-2 and F-3), is the response received from Ms. Ruth Jones when she returned to petitioner the copy of this appeal, as directed by the Court of Appeals for the District of Columbia, when it was served upon her. The envelope was addressed 'personal' to Ms. Ruth Jones, and as can be seen on Appendix F-3, the letter 'cc'ed to Ms. Ruth Jones. That personal copy of hers contained all of the Appendix E materials, and included the Certificate of Service at Appendix E-52.

REASONS FOR GRANTING THE PETITON

Integrity of process: *The 2003 Guide prepared by the Office of the Clerk* for indigent states that the "Court grants and hears argument in only about one percent (1%) of the cases that are filed each term." In other words, justice in this great country of ours is similar to a lottery. Lotteries have become quite popular in the last quarter century. What would this percentage be, if all of the 'monkey business' were factored out (or in)? People trust these new (relatively) lotteries because the statistically mandated, crooked ones have yet to be exposed and trumpeted by the media.

A dishonest game is a reprehensible thing. Those of us with honor, who value integrity, teach the young ones to play "monopoly" fairly; no sneaking money from the bank, no under the table side deals; follow the rules. Why? For integrity. It takes little explanation, as analogies go, for the young-ones to transfer this lesson to 'real life'.

Just because this Court is exposed to such a great volume of chicanery from state courts which are little more than hackneyed political clubs is no reason for it to allow its own integrity to be sullied by the pragmatic realists:

Integrity, it's either important or it's not.

The decision of the District of Columbia Court of Appeals in the instant case is in conflict with the prime case it cites for authority, its own case *Marin v Suter*, 956 F2d 339 (D.C. Cir 1992), and, therefore, with the two circuits whose cases are cited for guidance therein: *Borntrager v Stevas*, 772 F2d 419 (8th Cir.), cert. denied, 474 U.S. 1008 (1985) and *Panko v Redak*, 606 F2d 168 (7th) Cir.1979), cert. denied, 444 U.S. 1081 (1980). D.C.C.O.A. characterizations were the only available text.

Specifically, the author of the D.C. Court of

Appeals' decision under appeal does inaccurately paraphrase *Marin v Suter*, as holding that "the lower courts have no supervisory authority or mandamus jurisdiction over Supreme Court **Clerks**." February 9 Order, No 04-5241 [Emphasis added].

Mario v Suter, as the title implies, was not a case directed at one of the clerks or employees of this Court. It was a case directed at the officer of the Court. It was a case where a decision was questioned, not a case where the case(s) was never docketed, and therefore a decision never rendered.

An examination of *Marin v Suter*, reveals that its author never uses the term clerk, therein, without it being capitalized as a proper noun with definite article or definite adjectives. All nine times the term appears, it appears as a proper noun. Those nine uses include the uses in *Borntrager and Stevas*,. The case, itself, is simply not on point.

While it can certainly be said that an employee of the Honorable Clerk of this Court may at time be clothed in his title and authority, it cannot be said that this is always true. Mr. Suter may delegate to his employees only those options to act or fail to act which this Court bestows upon him. An employee of his may not opt to act unconstitutionally on his or her own initiative and be cloaked by the authority and mandate of the Office of Clerk. An employee may not, for money, fraternity, or other causes, decide to intercept and destroy (?) a person's submitted legal documents so that they are never docketed and never receive a decision by the court.

Where rogue acts of a federal employee deny a citizen that to which he has a right, a right to which he has no other means to enforce, mandamus will issue. Where all attempts to make that employee's unlawful acts known to her supervisor have been thwarted by that employee's interception of the correspondence, where else could a citizen go to cause the enforcement of his right but to the district court? *Borntager Supra*, the 8th Circuit Case,

"affirmed the district court's denial of mandamus, against Clerk on the ground that a petitioner could seek relief from the Court itself." Id. Nearly five years of history between the petitioner and respondent prove that to be impossible to accomplish in this case. The Court cannot exercise its "inherent supervisory authority", Id., when it cannot be reached by complaints or Petitions for Extraordinary Writs.

As can be seen from the many instances noted in the statement of the case and the documents in the Appendices, an 'in Re:', Extraordinary-Writ-Petition was first submitted in May, 2001, when it was returned in full with no new cover letter'. A mandamus was then sought in this Court and submitted covering a complete copy of all previous documents; it simply disappeared. Multiple attempts to communicate with various Officers of the Court drew no response. September 11, 2001 occurred. The Court Administrator became the Marshal of the Court by appointment. Mr. Christopher Vasil, who was substituting in the Administrator's Office, suggested resubmission of the Petition according to his directions. It was done.

Ms. Ruth Jones claims, after many letters to the Officers of the Clerk's Office that 'that mailing was never received'. These documents were meticulously recreated and resubmitted. The Post Office shows that the March 31, 2003 certified priority mail was delivered on April 08, 2003, but the respondent, who alone is assigned to handle petitioner's filings, has never filed them in the court or in any way responded to them. Every attempt to communicate with her superiors is intercepted by the defendant, herself. The reasoning of the 8th Circuit in,
Borntrager, then, simply does not apply.

Marin, Supra also states that the Seventh (7th) Circuit concluded that, there, the "[p]etitioner had not clearly established a right to have his papers filed." Id. As petitioner has here argued a First amendment right to petition the government for redress of grievances, the district court would have had to have countered that argument for the reasoning of that case to be applicable here.

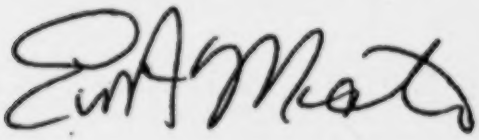
It would, therefore, appear that none of the prime or secondary authorities would support the decision of the District of Columbia Courts. With no Ombudsman or similar Complaint Office, how could this Court know how widespread the practices such as those herein complained are. The lower federal courts should not fear doing their duty just because a culprit is an employee of the Court. They should not be forced in "The Emperor has No Clothes" fashion to pretend the law is not the law. Mandate should be available to command any federal employee to do her duty.

The District of Columbia's Court of Appeals' holding is, itself. such a departure from common and case law jurisprudence as to the availability, reach, and purpose of mandamus as to be dangerous to Constitutional Democracy, especially in this post-Nine-Eleven world into which we have been thrust.

CONCLUSION

The petition for a Writ of Certiorari should be granted. All statements are avowed to under 28 U.S.C. § 1746 under penalty of perjury.

Respectfully Submitted,



Emory Alvin Michau, Jr.
Detainee 552428
Chas. Co. Detention Ctr.
3841 Leeds Ave.
Charleston SC 29405

August 25 2005

No. 045241

In The

Supreme Court of the United States

Emory Alvin Michau, Jr.,
Petitioner,
vs
Ruth Jones
Respondent

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
District of Columbia

APPENDICES

FOR

PETITION FOR A WRIT OF CERTIORARI

Emory Alvin Michau, Jr
Detainee No. 552428
Chas. Co. Det. Ctr., 3G
3841 Leeds Avenue
Charleston, SC 29405

No. _____

In The

Supreme Court of the United States

Emory Alvin Michau, Jr.,
Petitioner,
vs.
Ruth Jones
Respondent

MOTION FOR LEAVE TO SUBMIT DOCUMENTS PER RULE 33.2

The petitioner, appearing pro se while a prisoner, with limited funds, but sufficient to pay the 284 USC §1911 fees pursuant to Rule 38, does hereby Motion the Court for leave to submit his petition for Writ of Certiorari and related documents on 8 ½ by 11 inch paper pursuant to Supreme Court Rule 33.2. As exigent circumstance, Petitioner does cite his inability to hire an attorney or to arrange for the preparation of the documents per Rule 33.1 or to afford the additional monetary outlay. Petitioner, proceeded In forma Paupers, previously in this case and others, but acquired limited funds in the interim.

Petitioner does declare the truth and correctness of this motion per 28 USC § 1746.
Executed on July 4, 2005

Emory Alvin Michau, Jr
Detainee No. 552428
Chas. Co. Detention Ctr.
Charleston, SC 29405

United States Court of Appeals

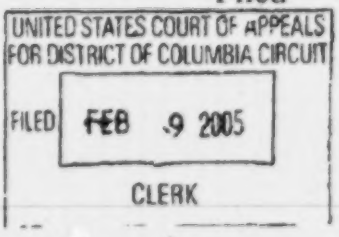
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5241 September Term, 2004

04cv00655

Emory Alvin Michau,
On:
Appellant

v.



Ruth Jones, Employee, Office of the Clerk, United States Supreme Court, et al.,
Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Ginsburg, Chief Judge, and Edwards and Garland, Circuit Judges

JUDGEMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34 (a)(2); D.C. Cir. Rule 34(j). It is

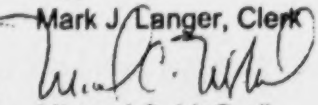
ORDERED AND ADJUDGED that the district court's order filed April 23, 2004 be affirmed, as the lower courts have no supervisory authority or mandamus jurisdiction over Supreme Court *clerks.* See, e.g., Marin v. Suter, 956 F.2d 339, 340 (D.C. Cir. 1980) (per curiam).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: 
Michael C. McGrail
Deputy Clerk

B-1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
APR 2 3 2004
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Emory Alvin Michau, Jr.	)	
Plaintiff	)	
v.	)	Civil Action No. 04 0655
Ruth Jones, et al.,	)	
Defendants	)	

MEMORANDUM

This matter is before the Court on plaintiff's *pro se* complaint and application to proceed *in forma pauperis*. The Court will grant the application and dismiss the complaint for lack of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3) (requiring the Court to dismiss an action "whenever it appears. . . that the court lacks jurisdiction of the subject matter).

Plaintiff is a prisoner incarcerated in Charleston, South Carolina. He sues employees of the Clerk's Office of the United States Supreme Court for alleged acts they performed in their official capacities. This Court lacks subject matter jurisdiction to review any decision of the Supreme Court or its Clerk. Marin v. Suter, 956 F.2d 339 (1992). "[I]t seems axiomatic that a lower court may not order the judges or officers of a higher court to take an action." *Panko v. Rodak*, 606 F.2d 168, 171 n. 6 (7th Cir. 1979), *cert. denied*, 444 U.S. 1081 (1980). A separate Order of dismissal accompanies this Memorandum.

United States District Judge

Date April 15, 2004

B-2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

APR 2 3 2004

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Emory Alvin Michau, Jr.	)	
Plaintiff	)	
v.	)	Civil Action No.
Ruth Jones, et al.,	)	
Defendants	)	04 0655

ORDER

For the reasons stated in the accompanying Memorandum, it is this 15TH day of April 2004,

ORDERED that the application to proceed in forma pauperis [# 2] is **GRANTED**; and it is

FURTHER ORDERED that this case is **DISMISSED** with prejudice for lack of subject matter jurisdiction. This is a final appealable Order

United States District Judge

C-1

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5241 September Term, 2004

04cv00655

Emory Alvin Michau,

Appellant

v.

Filed On:

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED JUN 16 2005
CLERK

Ruth Jones, Employee, Office of the Clerk, United States Supreme Court, et al.,

Appellees

BEFORE: Ginsburg, Chief Judge, and Edwards and Garland, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing filed March 14, 2005, it is **ORDERED** that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Michael C. McGrail
Deputy Clerk

D-1

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5241 September Term, 2004

04cv00655

Emory Alvin Michau, Filed on:
Appellant

UNITED STATES COURT OF A...
FOR DISTRICT OF COLUMBIA C...
FILED JUN 16 2005
CLERK

v.

Ruth Jones, Employee, Office of the Clerk, United States Supreme Court, et al.,
Appellees

BEFORE: Ginsburg, Chief Judge, and Edwards, Sentelle, Henderson, Randolph, Rogers, Tatel, Garland, and Roberts, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Michael C. McGrail
Deputy Clerk

U.S. COURT OF APPEALS FOR DISTRICT OF COLUMBIA CIRCUIT
NOV 15 2004
RECEIVED

E-1

No. 045241

In The

United States Court of Appeals

For the District of Columbia Circuit

Emory Alvin Michau, Jr.,
Appellant,
vs.
Ruth Jones
Office of the Clerk
United States Supreme Court; et as.
Appellees

September Term
04CV00655

Appellant's Brief with Appendix

Appellant does again inform the Court that he does not have access to the DC Circuit Appellate Rules, and as such is unknowledgeable of the procedure to comply with them. Appellant also does again notify the Court that he has no access to any Law Library or legal materials due to his unconstitutional detention.

Ms. Ruth Jones, an employee of the Office of the Clerk of the Supreme Court of the United States, has continuously and repeatedly thwarted appellant's every attempted exercise of his constitutional right of access to that Court for the review of final decisions of the highest court of the state of South Carolina, for review of decisions of the Fourth Circuit, United States Court of Appeals, and to petition the Court in its original jurisdiction for a Writ of Habeas Corpus.

"The Fifth Amendment to the Constitution guarantees that no one will be deprived of liberty without 'due process of law,'" *U.S. v Gaudin*, 515 U,S, 506 ll5S. ct 2310, 2313 (1994). "A citizen has a [First Amendment] right to petition the Federal Government for redress of grievances." *Federal Maritime Commn'. v South Carolina*, -U.S.- 1225 ct. 1864, 1865 (2002) (citing *West Virginia v U.S., 479 U.S.305, 311, 107 S. ct. 702 (1987) and U.S. v Cruck Shank*, 92 U.S. 542, 552-553, 23 LED 2d (l876)). "Congress has prescribed a primary route by appeal as of right and certiorari, through which parties may seek relief from the legal consequences of judicial judgments," *U.S. Bank Corp. Mortg. Co. v Bonner Matt Partnership*, 513 U.S.-18, 26 115 S. ct. 386, 392 (1995).

Beginning in September 2000, Ms. Ruth Jones has blatantly misidentified, mischaracterized and mishandled Appellant's filings in the United States Supreme Court causing the loss of Constitutional Review on direct appeal as a right and of other cases. Most recently, Ms. Jones with specific intent to prevent review by the Court, did fail to file and docket a timely filed direct appeal as of right from a decision of the South Carolina Supreme Court. Appellant submitted the one page "Motion for Enlargement of Time to submit Application for Writ of Certiorari for Direct Review of State Supreme Court, See Appendix A-18. Mrs. Ruth Jones claimed the sheet was a "petition for 'Writ of Certiorari', postmarked October 2, 2003..." [Which] fails to comply with the content requirements of Rule 14," stating that "No change to the substance of the 'petition' may be made." See Appendix A-5.

Appellant's letter, accompanying the motion and provided to this Court at Appendix A-1 through A-4, explained the reasons that an extension of time was required. See pages 3 and 4 of that letter at Appendix A-3 and A-4. An official In Forma Pauperis Motion with attached affidavit was enclosed with the letter as well.

Ms Ruth Jones failed to even acknowledge the other matter enclosed to the Court in what was appellants' only envelope, The petition for Writ of Habeas Corpus which is provided at Appendix 19. She returned the whole filing, with only the letter stamped received. See Appendix A-1.

Appellant's situation improved temporarily and he was able to have copies made of the letter and the documented. He resubmitted both matters individually with a new cover letter for both matters, providing copies of all the original correspondence and filings with In Forma Paupers Motion and affidavits. The letter covering the resubmitted Petition for Writ of Habeas Corpus is provided to the Court at Appendix A-19. Also, this mailing was sent by registered United States Mail, restricted delivery, addressed to William K. Suter, Clerk of Court. The cover letter is provided to the Court at Appendix A-6 and A-7. The green return receipt post card, property of appellant, was never returned.

A second letter, including a copy of the letter of Ms. Jones of October 8, 2003 was also posted at the same time by regular U.S. Mail, addressed "personal" to William K Suter, Clerk of Court. That letter is provided to this Court at Appendix A-8 and A-9. That letter was